

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,

v.

TELEXFREE, INC.,
TELEXFREE LLC,
JAMES M. MERRILL,
CARLOS N. WANZELER,
STEVEN M. LABRIOLA,
JOSEPH H. CRAFT,
SANDERLEY RODRIGUES DE
VASCONCELOS,
SANTIAGO DE LA ROSA,
RANDY N. CROSBY and
FAITH R. SLOAN,

Defendants
and

TELEXFREE FINANCIAL, INC.,
TELEXELECTRIC, LLC and
TELEX MOBILE HOLDINGS, INC.,

Relief Defendants.

Defendant.

No. 1:14-CV-11858-NMG

**OCTOBER 15, 2015 STATUS REPORT OF THE
DEPARTMENT OF JUSTICE
CONCERNING PARALLEL CRIMINAL PROCEEDING**

By an order dated October 8, 2014, the Court granted the Department of Justice's motion to intervene in these proceedings, and further granted its motion to stay discovery until parallel criminal proceedings are resolved. *See Order (Dkt # 275)* at 10 ("Discovery in this civil enforcement action brought by the SEC will be STAYED pending resolution of the parallel criminal proceedings against defendants Merrill and Wanzeler in Case No. 14-cr-40028-TSH."). The Court also ordered the Department of Justice ("DOJ") to file a status report on the progress of the criminal case on or before January 15, 2015, and every three months thereafter. *Id.* On January 15, 2015, the Government filed a status report (*Dkt # 289*). On April 15, 2015, the Government filed a second status report (*Dkt # 295*). On July 15, 2015, the Government filed a

The Status Of The Criminal Case
U.S. v. James Merrill and Carlos Wanzeler, No. 14-cr-40028-TSH

A trial date of April 4, 2015, has been set by District Court Judge Timothy S. Hillman in this case. However the case has not been transferred to Judge Hillman's session and Magistrate Judge Hennessy continues to monitor the case.¹ As of last week, discovery is essentially complete with the exception of 21 day disclosures and discovery related to expert witness.

As described in previous status reports, there is an extremely large volume of discoverable material in this case. The volume and scope of discovery combined with the fact that the case involves documents and witnesses outside the United States, documents in a foreign language, and some documents which the Government has subjected to review by a "taint team" has caused this case to be designated a complex case by the Magistrate pursuant to 18 U.S.C. Section 3161(h)(7)(B)(ii). (*U.S. v. Wanzeler et al.*, 14-cr-40028, *Dkt* # 118).

Magistrate Judge Hennessy continues to closely monitor the case, scheduling status conferences approximately every six to eight weeks. The next status conference is scheduled for December 4, 2015. The Government anticipates that the case will be referred to District Court Judge Hillman at the next status date.

¹ In addition to setting the April trial date, District Court Judge Timothy S. Hillman is closely monitoring the progress of the criminal case because the resolution of this case impacts other cases assigned to him. Judge Hillman allowed both the Government's request to intervene and the Government's request for a stay of discovery in a related class action case. See, *In Re: Telexfree Securities Litigation*, MDL No. 14-md-2566-TSH (*Dkt* # 111). The Government has been appearing at the status conferences in the *Telexfree Securities Litigation* matter and updating the Court on the status of the criminal case.

Per the Court's order of October 8, 2015, DOJ will submit another status report three months hence, on January 15, 2016.

Respectfully submitted,

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Date: October 15, 2015

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent to those indicated as non-registered participants, on July 15, 2015.

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Date: October 15, 2015